

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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RAFAEL FIUMARA,

Petitioner pro se,

- against -

88 Cr. 217-009 (JES)

UNITED STATES OF AMERICA,

**SUMMARY ORDER**

Respondent.

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The above-captioned action having come before the Court by way of petitioner pro se's Motion for Sentence Adjustment dated March 15, 2006, and the Government having submitted its Response to petitioner pro se's Motion dated June 30, 2006, and the Court having considered all matters raised, and

**WHEREAS**, on June 7, 1997, petitioner pro se was convicted of conspiracy to distribute and possess with the intent to distribute heroin pursuant to 21 U.S.C. § 846, and conspiracy to import heroin to and export cocaine from the United States pursuant to 21 U.S.C. § 963, and

**WHEREAS**, on March 4, 1998, the Court sentenced petitioner pro se to serve two concurrent terms of 167 months imprisonment and five years supervised release, and

**WHEREAS** petitioner pro se at present seeks immediate release from prison, or, alternatively, annulment of his term of supervised release, which is currently scheduled to commence upon his release from imprisonment in October 2007, see Mot. for Sentence Adjustment, and

**WHEREAS** the Court has previously considered and rejected a motion made, pursuant to 28 U.S.C. § 2255, by petitioner pro se to vacate or set-aside his sentence, see Fiumara v. United States, 198 F. Supp. 2d 427 (S.D.N.Y. 2002), and

**WHEREAS**, pursuant to 18 U.S.C. § 3583(e)(1), this Court may terminate a previously-imposed sentence of supervised release only "after the expiration of one year of supervised release," and only upon a showing that such modification is "warranted by the conduct of the defendant released and the interest of justice" as well as the sentencing factors set forth in 18 U.S.C. § 3553(a)(1), (a)(2)(B), (a)(2)(C), (a)(2)(D), (a)(4), (a)(5), (a)(6), and (a)(7), and

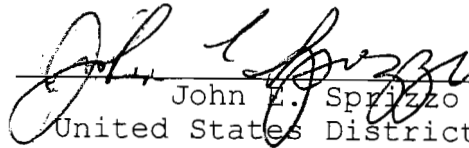


**WHEREAS** petitioner pro se is not scheduled to begin his five-year term of supervised release until October 2007, it is

**ORDERED** that petitioner pro se's requests for immediate release from prison and annulment of his term of supervised release shall be and hereby are denied; and it is further

**ORDERED** that petitioner pro se's request for modification of his term of supervised release is premature and therefore shall be and hereby is denied.

Dated: New York, New York  
July 6, 2006

  
John E. Sprizzo  
United States District Judge